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Cleveland-Marshall College of Law

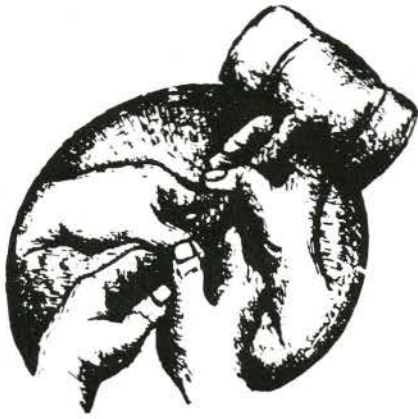
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THE GAVEL

Volume 39, Issue 5

Cleveland-Marshall College of Law

April, 1991

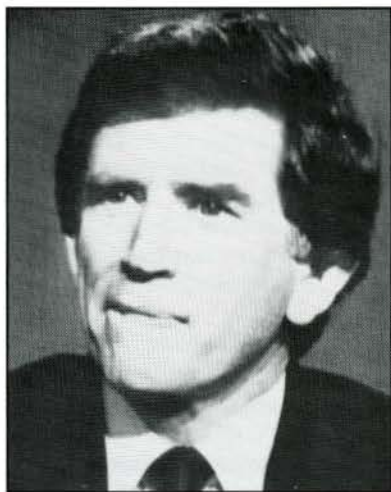


the job-hunting blues...



NOT HIRING

The GAVEL



"Stuart Berman"

.....

*Correction in February
GAVEL:*

"The Trial Lawyer's Edge" should have been followed by this attribution: Portions of this story first aired over "As it Happens" radio. This information is used with permission of the Canadian Broadcasting Corporation of Toronto, Ontario.

.....

**Next GAVEL
Deadline...**

**... is NEXT
FALL...**

The GAVEL

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Any interested students, including first-year students, are encouraged to become involved. The Gavel office is located in room 23, near classroom 12. Stop by, someone is usually in the office - if not, put a note in the envelope on the door.

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Letters:

To the Editors of the Gavel

This letter is to address the grievous problem that occurred last issue when an SBA Senator vented a personal grudge against a professor and his daughter. Our first concern with Senator John Fitzmaurice and his "Letter to the Editor" in the February, 1991 issue is that he considers it to be a grievous problem that a Cleveland-Marshall student was enrolled in her father's classes for the past two semesters. In reality, this letter was a failed attempt by Fitzmaurice to strike back at a professor for reprimanding him for talking incessantly during class in Labor Law, Fall Semester, 1990.

As for his allegations of impropriety, we know for a fact that the professor's daughter was always more prepared for class and especially for the Labor Law final exam than most students. As law students, we are all familiar with the pressures associated with certain professors in preparing for class. In this situation, these pressures were compounded by the need to live up to her father's lofty expectations.

In addition, Senator Fitzmaurice's allegation that the professor's daughter was the only student not called on to recite a case during the course of the semester is completely inaccurate. We know of at least two other students who were not called upon to brief a case last semester. It should also be noted that class participation was not a part of the final grade in Labor Law, so there was not penalty to

any students as a result of the professor not calling on his daughter. The most logical and sensible assumption is that this professor purposely chose not to recognize his daughter's presence in his class in order to avoid inferences of partiality, favorable or not, or the certain awkwardness accompanying such recognition.

Further, it is our understanding that Fitzmaurice's allegations of impropriety in the grading process are not based on fact, but rather, on Fitzmaurice's own presumptions. He is not likely privy to information concerning administrative grading procedure, and it is highly unlikely that any faculty member or Dean privy to such confidential information would ever disclose it to Mr. Fitzmaurice, regardless of his senatorial standing.

Even assuming that this particular exam was graded separately, there is not evidence to suggest a violation of anonymity. This procedure is commonly employed under special circumstances where a student must make-up a final exam. In essence, Mr. Fitzmaurice's allegations attack the integrity of the grading system employed by the administration as well as that of the administrators who oversee the system.

Assuming, *arguendo*, that the professor in question did actually grade his daughter's exam, the present system also effectively preserves the anonymity of the student. We find it very difficult to believe that even if he were so inclined, the professor in question could never distinguish the penmanship of his

daughter from that of over 40 other students. It is our belief, as impartial observers, that a majority of the students from that class never thought to question the anonymity of the grading, nor the integrity with which it was approached.

The real impropriety in this situation is that an SBA Senator, harboring resentment against a professor, and consequently his daughter, would be permitted to use his position to single-handedly lump The Gavel in with The Star and the National Enquirer. It is a shame that these energies are not spent on the legitimate problems of this law school, such as parking and registration. It seems unfair that a student would be penalized by being prohibited from taking a class taught only by her father. (The professor in question was the only professor to teach Labor Law last semester and is the only professor that teaches Arbitration.)

We felt it was necessary to write this letter, not to defend the honor of a professor and his daughter, but to question that of a certain SBA Senator.

Eric Bell
Robert Catalde



Sen. John Fitzmaurice
...motivation questioned

To the Editors of the Gavel

Dear Mr. String

As a prose person who uses your law library for research, I sometimes pick up and read The Gavel. I found your recent article on the death of privacy in the Gavel to have distressing practical implications, and I hope you will consider this response.

First, I would defer to your education in law and say that I am far less qualified than you to argue privacy rights. But perhaps my experiences and my insights gained from them will shed more light on the subject. I trust that we were both around in the Sixties, although I would guess that during that period, I had more education than you had. The prevailing culture of that time embraced the ideas of openness, trust, and disclosure of personal information. Persons who were circumspect about their private lives were viewed as "up tight". I do not disparage that culture; in the proper context it gave me the freedom to become myself and to grow into a wiser and more tolerant person. But I have found that such openness, while appropriate for the "T-groups" and the general Sixties culture, is less appropriate in the competitive atmosphere found in the

world of free enterprise, and it is folly in adversarial conflicts.

Since circumstances dictate when the right of privacy is appropriately asserted, they also affect when the deprivation of that right is more keenly felt. A successful professional may not be threatened by disclosure of her intimate life, but if she were libelled, disgraced, and fired, disclosure of her private life in which she may reasonably be humanly fallible and weak, becomes a threat by giving credibility to her detractors. It also becomes more negative because she has become more vulnerable to attack.

Similarly, drug tests pose less of an invasion to those who do not require privacy to urinate. There are a number of persons who do require it, and when required to have a witness, find it impossible and must be catheterized. Most people would find that embarrassing and public knowledge of their weakness humiliating. This is only a threat to a small minority, so expecting legislators to protect those few at a time of great public concern over drug abuse is somewhat unreasonable.

If you will allow me to pose a legal question, I am perplexed by your statement that the right to privacy is not found in the Constitution. It seems to me that it was the expressed reason for the Fourth Amendment.

See Letter / p.11

Office of Career Planning can go nowhere but up

By Kevin L. String

For a person who loves to question things, Cleveland-Marshall can be sheer paradise. One does not need to pull out the proverbial microscope to find glaring problems that cause a student to ponder out loud; "What's going on here?" First, we have an oppressive grading policy that is clearly out of step with most of the country including CWRU. Second, we suffer from a general lack of Bar Exam preparation, in and outside of the classroom. We get reminded twice a year of this problem. Third, we have student leaders who believe that the greatest accomplishment that they can achieve is getting elected. Our current SBA system continually brings forth those with poor leadership qualities but a remarkable ability to garner votes.

Well, now the time has come to take a good look at our Office of Career Planning (OCP), which throughout most of this year has been about as busy as a National Guard Enlistment office. It's particularly sad and ironic for third year students because it may be harder now than ever before in the history of the profession to get a job.

As most of you know, we have a new director showing up next month, giving us reason for hope. No doubt, the OCP needs a fresh face with initiative, imagination, and pride in her work. This all remains to be seen. Therefore, the purpose of this article from this point is not to bemoan or begrudge past efforts, but to offer a brief look into what the OCP can do with the right person in charge. Please excuse me if I slip along the way.

To discover what perhaps can be done I decided to contact other offices around the country. My first call went to the University of Pittsburgh. Being situated in a city similar to Cleveland with about the same number of students, I felt it a good place to start. I talked with OCP Director Sandra Dolan. She sounded energetic and anxious to talk about her program. Before working for Pitt she earned a PhD in Psychology giving her excellent background for the job. The students she works with have an average LSAT score and average undergrad GPA slightly higher than ours.

Last fall they had roughly 95 firms come on campus to interview, including several from outside of Pittsburgh. She also organized field trips to Washington D.C. and Philadelphia where firms came to the hotels where the

students stayed to conduct interviews. Throughout the remainder of the year another 30 to 40 smaller firms came to campus for less formal interviews.

In contrast, C-M had 43 firms come to campus last fall with a meager 10 outfits from beyond our city limits. Interviews throughout the remainder of the academic year are few and far between. There are no field trips to be found in these here parts either. When one considers that the number of law firms in Cleveland far outnumbers Pittsburgh, then the disparity in figures becomes even more disturbing.

One interesting nuance in Pitt's resume procedure is that the students do not report class rank or GPA. Instead, they only put down a letter grade such as B or B+. This is done at the Dean's direction to force firms to look at more students and more information before making final decisions. A hands-on approach by the administration is lacking at C-M.

*... there is a lot more the OCP
can be doing for us, and in these
tough times, we need all the help
we can get.*

Needless to say, they use a grading policy that renders a class GPA above 3.00. This means that over half of the prospective interviewees get to put a B or better on their resumes, undoubtedly forcing firms to look at other factors and a wider variety of students.

Finally, Dr. Dolan placed great emphasis on follow-up. Her office puts a concerted effort into tracking down all graduates. With a near 100% response from the 1990 graduating class, she claims over 90% are working in the field of law. Only 73% of our 1989 graduates have reported in, while a paltry 46% of the 1990 graduates have responded to surveys. These low returns render the resulting placement statistics virtually meaningless. But more importantly, all directors I talked to emphasized that alumni contacts are a premier source for job placements thus making lack of follow-up completely inexcusable (1988-70%, 1987-75%)

Compared to Pitt, I would say someone hasn't been doing her job around here and our new director can go nowhere but up.

I then had an interesting conversation with Professor Kenneth Hirsch at Duquesne University in Pittsburgh. The school is very similar to ours in entrance requirements, size,

location, and night students. It is also similar in that they compete with Pitt, like we do with CWRU. Professor Hirsch didn't have many statistics but he sounded very upbeat about the program. Furthermore, he made the point of telling me that after several years of debate, the faculty "could not in good faith continue their [grading] system." (the same system we currently employ) He emphatically stated that the grading policy change has helped their students compete with Pitt for openings in the job market. As he put it; "you can't grade worse than the college down the street without hurting yourself." So they instituted a system based upon a 4.0 top score but they employ A+, A, A-, B+, and B between 3.0 and 4.0. The resulting mean is greater than 3.00.

I didn't know whether to laugh or cry at this point, but as a true Cleveland fan I hate losing to Pittsburgh--and we're losing.

I also contacted OCP offices at several other school including Buffalo and Detroit. I was impressed by the energy and openness of the directors I talked to. In the interests of saving time and space, and for fear of being redundant I will just say the story was the same everywhere; we are being summarily outclassed. Besides progressive grading and resume policies at these schools, there exists a genuine spirit of concern and enthusiasm in their respective OCP's. In fact, the director at Emory in Atlanta characterized her job as a "mission". Conversely, the attitude in our OCP office since I've been here is, "Don't look at me if you didn't get an interview, you weren't being realistic."

There is no doubt that the ultimate responsibility of finding a job falls on the student. But, to put it bluntly, there is a lot more the OCP can be doing for us, and in these tough times we need all the help we can get. We don't need another caretaker of information.

I therefore suggest that a faculty-student committee be formed to act as a watchdog over our new director, and I mean a real committee that does its homework, knows the facts, and demands results. Our new director should have someone to answer to; most people do in the real world. If the committee sees no improvement then they should quickly move to find someone who can bring life into the OCP. We've struggled long enough with a mediocre program--it's time for a change.

Again, I call directly on SBA to take action. Does this qualify as a student concern, or is it "every man for himself," as usual?

An Interview with New OCP Director Applin

What is bringing you to Cleveland besides your job offer? Tell us about your contacts here and your view of the opportunities available in Cleveland for yourself and C-M students.

What brings me to Cleveland besides the job offer? Lifestyle, the opportunity to make contacts, and establish solid networks in the Cleveland community. I have been in a rural setting for some time now, and the change of scene that I feel Cleveland will offer me will be a breath of fresh air. Meeting new and different people, being closer to my family in southern Ohio, and enjoying the four seasons are all important factors to me.

What are your immediate and long-term goals?

I strongly believe that I will have to have a long-term focus. If you become too concerned with the immediate short-term goals, you can easily get eaten alive by the small problems that always occur. But, if you understand what you want to accomplish, you will be better able to assure that the institution is moving in the right direction. At this point in time, I'm not totally sure of what the needs and wants of Cleveland-Marshall are, my plan is to assess where the strengths and weaknesses are.

Specifically, what new programs can you institute here? Any changes?

On the issue of new program development, I think this is a crucial period for the legal community. There is a general sense in the

public, government, labor, and private industries to feel that we may need some big changes in the way we search for and acquire employment. At this point, I don't see rushing into providing an array of new programs without first assessing the issues and concerns specific to the population of the student body. On the other hand, I don't intend to wait around to see which groups need what and when.

What can you do to provide an opportunity to make contacts for those students who are not in the top 25% of their class?

Providing opportunities for contacts for any student is always a challenge. I not only want to provide contacts, but assist in gathering the correct resources and referrals to prepare people for legal careers by telling them what is going on in the field of law through contacts and cases about real people who are in the field. One of the most important means of providing contacts is to talk to people in the field, meet with alumni and students, and get the faculty involved.

Tell us something about yourself.

I am a native of Ohio, I attended Central State University as a undergraduate, and later pursued a Master of Arts in educational administration from the Ohio State University. I have had a number of different work assignments including: librarian assistant, program coordinator, career counselor, and



New OCP Director Cynthia A. Applin

most recent assistant director of career and employment services at Dartmouth College where my focus was on pre-law advising, job development, and career counseling. I have a special interest in the developing models in reducing cultural barriers to the point where effective business relationships can be established and maintained in the community at large. I enjoy learning new ways of doing the same thing, cooking, amusement parks, and playing co-ed softball. I am single, and have a six-year-old daughter. I am an active member of the National Association of Student Personnel Administrators, and National Association of Women Dean Administrators and Counselors. I am not only delighted about joining the C-M family, but I am thrilled!

Cynthia A. Applin

Former OCP Director Discusses Interviewing

By Desmond Griswold

Students shouldn't apologize for attending Cleveland-Marshall Law School, yet many make that mistake each year during job interviews, according to a Case Western Reserve University placement specialist.

"Don't apologize for coming to CSU," Nancy Goldman told Marshall law students during an interviewing seminar on campus last month. "It's an excellent law school."

Goldman, former director of Cleveland-Marshall's Office of Career Planning, now holds a similar post at the Mandell Center for Non-Profit Organizations at CWRU. She was invited back to CSU by Kay Benjamin, acting director of the Career Planning Office.

Typical situations where an interviewee starts making excuses for attending CSU involve employers who graduated from schools like Harvard and Yale, she said. If an interviewer reacts negatively to a C-M

education, Goldman suggested that students point out that C-M graduates are employed by many of Cleveland's largest law firms and corporations.

Similarly, she stated that students should not apologize for earning poor grades. If a potential employer inquires about low marks, Goldman advised students to respond positively. This, she said, can be accomplished by directing the interviewer's attention to things the student has done outside of class such as clerking or assisting a professor.

Other interviewing do's and don'ts Goldman shared with students included:

- Research the firm or employer offering the interview before you go in.
- Dress conservatively and do not wear brand new outfits.
- Shake hands with the interviewer when arriving and departing.
- Have questions you want to ask in your mind and not on paper.

See Interviewing / p.12

MOOT INTERVIEW ...

By Mark J. Bartolotta

The pacing back and forth over the same worn down path of floor gets the other "victims in waiting" even more antsy. But it doesn't matter because you're next. The following twenty-five minutes will determine if you really are "Smith, Night, Reamus & Poke" material. This mega-firm-a-opolis has weeded through stacks of single sheet life stories submitted by hundreds or thousands or probably billions of partnership tract wanna be's. Somehow, when they came across yours, skyrockets went off, trumpets sounded, angels sang, grown men wept, (or maybe they just wanted to find out what you did when nature called while you worked alone in that Fotomat booth back in the summer of '84). But for whatever reason, that little resume full of embellished facts, half truths, and figments of your fertile imagination did its job. It got you the coveted first interview. That was the easy part. Now the real fun begins!

The door to the interrogation room opens and out staggers what remains of the previous interviewee. You're not quite sure if that look on his face is one of exhaustion, disgust, or despair. It kind of reminds you of the look one gets while walking to one's car and seeing a member of the CSU parking police hit squad wearing the smug grin of accomplishment while depositing a white envelope on one's windshield. But that is not your problem right now. You are no longer on deck. It's your turn to bat.

You are summoned into the room. You look great; neatly groomed and no wrinkles in your clothes thanks to thirty minutes with a hot iron and a can of spray starch on your shirt. Of course now you make crunching, crackling noises whenever you bend your elbow or turn your head. But you're not worried. The chaffing will heal. The door closing behind you causes a breeze of what seems to be tropical storm proportions, similar to that of the wind tunnel stairways in the law library. As you reach to shake the interviewer's hand your hair is promptly blown into your face. You suddenly lose that firm, business-like grip. Funny, your hand wasn't so cold, clammy, and wet twenty seconds ago before you entered the room. While the introductions and small talk are quickly done away with, you are quite sure that your red face and beads of perspiration

remain.

Now the intense questioning really begins. The answers you give during the next twenty minutes will surely sum up everything the interviewer needs to know about you. Not exactly your life flashing before your eyes, but close to it. As a result, your right brain and your left brain are engaged in a battle to determine whether you should answer these brilliant, original, thought provoking questions truthfully and how you really feel, or whether you should give the bullshit answers that you think the interviewer wants to hear:

Q: Tell me about yourself. (Not really a question. probably asked just to see how long you can ramble on.)

A: Well, I hate to blow my own horn, but I will. I'm a Phi Beta Kappa, graduated with honors, accepted to six different law schools, in the top 5% of my class. I'm a damn fine person, and I drive a BMW.

... Or

A: I'm poor, I'm in debt, I have no money, my credit is shot, I just want to get the hell out of law school. Gimme a job, gimme a job, gimme a job!

Q: Why do you want to work for Smith Night? (This question presents an obvious opportunity to really pour it on thick.)

A: Simply because Smith Night is the best. I only want to work with the tops in the field.

... Or

A: (Stupid question.) Because you pay over fifteen hundred bucks a week. If I don't get this job I'll have to take a job through work study where I'll make less than I would flipping burgers at McDonald's. Gimme a job.

Q: Why should we hire you at Smith Night? (The perfect chance to blow your horn like it has never been blown before.)

A: You mean besides the obviously impressive credentials on my resume? You should hire me because I am a hard working over-achiever who is willing to sacrifice any and all social life whatsoever in order to be the best and most productive associate that you've ever hired and who will exceed the required amount of billable hours by at least 25% in my first year and will subsequently increase that amount by 10% per annum until

I become the youngest person to ever become partner in this firm which will be before I turn thirty years old because I am such a hard working individual. (I think I just sprained my tongue!)

... Or

A: You should hire me because I'm such a ballbust to work with. I really know how to have fun at work. I'm no stuffed-shirt book worm stiff. Besides, I woke up, got dressed and came to this interview, didn't I? Isn't that reason enough to hire me? Gimme a job.

Q: What are your weak points? (Finally, the inevitable ultimately unanswerable question. Designed to see how much of a BS'er you really are.)

A: My weakest point is that I tend to work too hard at a project until it is complete, taking on too much responsibility along the way. But I guess from your point of view as an employer, that would be a strong point and not a weak point. Wow, isn't that funny how I was able to turn my weak point into a strong point. (Pretty clever).

... Or

A: I'll be totally honest with you. (Bad idea). I have a terrible time trying to get out of bed every morning. I just can't seem to get going until I've watched Regis and Kathy Lee on TV. But after that I feel really informed and ready to take on any task. (A desperate attempt to turn a weak point into a strong point.) Gimme a job.

Q: What are your strong points? (A chance to cancel out the effects of stating your weak points.)

A: I'm a great communicator. I get along well with all types of people, the important ones as well as the peons. I'm flexible enough to do many jobs. I'm a great guy to get to know. And don't forget, I drive a BMW.

... Or

A: I can stay out til five o'clock in the morning, wake up at six, and make it into work by seven if I absolutely have to. (Seven thirty if I need a shower.) I can dress myself without having my clothes clash. And I have perfect teeth with no cavities. (Mom was head hygienist at Sears Dental Clinic.) Gimme the stupid job already.

See Moot Interview / p.12

Werber receives Stapleton Award

By Mark J. Bartolotta

The Cleveland-Marshall Law Alumni Association has announced that they have chosen Professor Stephen J. Werber as the initial recipient of the Dean Wilson G. Stapleton Award for Faculty Excellence. Professor Werber will be honored at the Law Alumni Association's Annual Recognition Luncheon on Friday, May 3, 1991. According to Richard S. Koblentz, president of the Law Alumni Association, the award was named after Dean Stapleton because he was so highly thought of by many prominent alumni. Koblentz stated that the award was created as a way of maintaining the memory of a man who so greatly helped shape Cleveland-Marshall and was so instrumental in making it what it is today. The purpose of the award is to recognize faculty members who embody the spirit of Dean Stapleton by their sustained excellence in teaching and their overall involvement with the student body. Koblentz said that the award will not necessarily be presented annually, although it's not due to a lack of quality candidates.

Wilson G. Stapleton was dean of the law school from 1945, when Cleveland Law School merged with John Marshall to form the Cleveland-Marshall College of Law, until he retired in 1967. Dean Stapleton played a major role in securing national accreditation from the ABA for Cleveland-Marshall in 1956-57. Aside from his duties as dean, Stapleton also taught property law. He has an annual award in the field of property also named after him, which is funded by his widow. Associate Dean Carroll

Sierk remembers Dean Stapleton as a great recruiter and salesman who utilized his engaging personality to persuade many area businessmen to attend Cleveland-Marshall, which was strictly a night school during his tenure as dean. After retiring from Cleveland-Marshall, Dean Stapleton passed the Florida bar exam at the age of 71 and practiced law in that state for a period of time. Outside of the law school, Dean Stapleton had also served as Mayor of Shaker Heights. Associate Dean Sierk recalled a story that typified Dean Stapleton's "go-getter" type of personality. Sierk said that when Stapleton was 16 years old he used to fly airplanes as a hobby. This was during the time of World War I. Stapleton wanted to fly for the U.S. in the war, but was turned down due to his age. Stapleton, not to be denied his chance to serve, went to Canada and became a Canadian Air Ace in the war.

Professor Werber has been honored as the first recipient of the new award. His selection was unanimously approved by both the Law Alumni Association's Executive Committee and by the entire Board of Trustees. Alumni President Koblentz said that Werber is an excellent choice for the award. Besides teaching in the areas of contracts, products liability, evidence, appellate advocacy, and advanced brief writing, Professor Werber devotes a great deal of time and energy to students as the Faculty Advisor to Moot Court. In addition, he is a member of Cleveland-Marshall's Curriculum Committee and the Vice Chair of the Personnel Action Committee.

• • • • •

Professor Strickland to visit C-M

The Cleveland-Marshall Lecture Fund Series provides Cleveland-Marshall students with a unique opportunity to gain valuable insights into specialized areas of law from experts around the States. This month, our school will be honored with its Fiftieth Visiting Scholar, Rennard J. Strickland. He will deliver a lecture entitled "Indian Law and the Miner's Canary" on Wednesday, April 17, 1991, at 12:00 noon in the Moot Court Room. Professor Strickland is the author of many books and law review articles concerning Indian Law and was the Editor of the Handbook of Federal Indian Law (1981).

Blue flyers will appear on doors and walls in the near future to announce additional times during which C-M students can become more familiar with American Indian Law from Professor Strickland's perspective. In particular, be sure to attend the welcoming reception in addition to the noon lecture. The law library will be displaying some of Professor Strickland's articles as well as a bibliography of his work.

Moody to head LSAC

If the Law School Admission Council is the "gatekeeper of the profession" then Professor Elizabeth A. Moody holds the key. Ms. Moody was recently appointed President of Law School Admission Services and Executive Director of the Law School Admission Council.

A graduate of Barnard College and the Yale Law School, Ms. Moody has practiced law school in Connecticut and Ohio and has taught for more than two decades at Cleveland-Marshall, serving as Interim Dean in 1987-1988. Remaining a Cleveland-Marshall faculty member, she will be on leave while serving in this present capacity.

As Executive Director she will oversee all facets of the Council including the development and administration of the LSAT's, the Law Access Loans, and law school transcript services. In addition, the Council conducts major educational research. The Council is beginning a five year study on Bar passage which will trace law students' development from taking the LSAT to passing the Bar.

As Ms. Moody stated, "there are three great organizations in the law field, the American Bar Association, the Association of American Law Schools and the Law School Admissions Council. My position is an exciting opportunity."



Prof. Elizabeth A. Moody

Faculty Adopts New Grading Guidelines

On Thursday, March 28, the faculty voted to accept the grading guidelines proposed by the Academic Standards Committee, chaired by Professor David Forte. The proposed guidelines passed by a slim margin of victory: 13 professors voted for adoption while 11 voted against it. The guidelines will go into effect this coming fall.

The main feature of the new guidelines is the addition of the "D+" (1.50 GPA). Instituting the "D+" is part of an overall program designed to enhance C-M's reputation by increasing annual bar-passage rates. The "D+" will be used by professors to "weed-out" students that have been previously getting by with "C's", thereby eliminating from the scene students who have a high probability of bar exam failure. Other ideas to accomplish this goal are being considered such as eliminating the first-year perspective elective requirement, and not using Legal Writing grades for student retention purposes. Both courses are perceived as rendering grades that often bail-out a student that otherwise would be in trouble.

There are other minor changes in the new policy as it appears on paper, but many of the professors agreed that in practice the new guidelines will make no difference to most students.

comment

In April, 1990, I wrote an article for the Gavel that discussed flaws in our grading policy. It appeared obvious to me then that C-M was not graduating enough students with 3.00 GPA's or better. It also seemed that we weren't in the same grading policy ballpark with CWRU Law School, our main competitor. I personally took this grievance to Dean Smith last summer. He handed it over to Dean Makdisi, agreeing that the situation warranted a thorough examination. Dean Makdisi discussed the problem at length with me last September. He agreed that there was cause for alarm, though he gave no assurances that serious reform would result. Dean Makdisi then took the issue to the faculty.

Several faculty members, most notably Professor Werber, openly expressed concern about our current policy as being out of step with other schools, especially CWRU.

Even though I asked for their help, SBA never got into the act. However, I didn't think that would make too much difference, because by mid-October, the reform discussions amongst the faculty seemed to be heading in a positive direction. But all was not as it seemed.

Now, the results are in, and students are going to pay the price for SBA apathy and faculty myopia. Meanwhile, CWRU will continue to appear significantly ahead of us in over-all intelligence. They will retain their competitive edge in the job market, while even our top students will continue to appear second-rate.

One year ago I raised the grading policy issue with the hope of seeing an "A+" system put in place along with a 3.00 class mean. Instead, the faculty turned its back on the reason the issue was brought up in the first place, and actively pursued their own agenda. Their new policy lends no significant help to top 50%, while it creates a D+ for the bottom 50% to worry about. I can only hope now that the faculty can see what it has done and seriously reconsider its decision.

Kevin L. String

FIRST YEAR

Current Guidelines

<u>Grade</u>	<u>Percent</u>	<u>Range</u>
A	8%	4%-10%
B+	14%	10%-16%
B	19%	17%-23%
C+	23%	20%-30%
C	28%	25%-35%
D	5%	0%-8%
F	3%	0%-6%

Proposed Guidelines

<u>Grade</u>	<u>Percent</u>	<u>Range</u>
A	10%	8%-12%
B+	14%	10%-16%
B	18%	16%-20%
C+	22%	18%-26%
C	26%	22%-30%
D+	5%	0%-10%
D	3%	0%-6%
F	2%	0%-4%

UPPER LEVEL

Current Guidelines

<u>Grade</u>	<u>Percent</u>	<u>Range</u>
A	12%	8%-15%
B+	16%	13%-19%
B	23%	21%-28%
C+	23%	20%-29%
C	21%	18%-27%
D	3%	0%-7%
F	2%	0%-5%

Proposed Guidelines

<u>Grade</u>	<u>Percent</u>	<u>Range</u>
A	14%	10%-18%
B+	18%	14%-20%
B	22%	16%-24%
C+	22%	18%-26%
C	18%	14%-22%
D+	2%	0%-6%
D	2%	0%-6%
F	2%	0%-4%

WLC HOSTS CHAMPAGNE BRUNCH

by Barbara Oswick

The Women's Law Caucus of C-M hosted a champagne brunch on March 6th which featured two speakers on "Women and the Law" in the Cleveland area. Approximately 65 students, faculty and administrative members, and invited guests enjoyed eggs, French toast and fresh fruit. As outgoing president, Eileen Vernon (Dec. '91) presided over a short business meeting. She presented the annual Outstanding Leadership Award to Catherine (Kay) Furio (May '91) in recognition of her dedication, leadership and support in many areas of student life over the past four years. The second order of business was to present the Women's Law Caucus Scholarship to retire a debt of a female student to the C-M Emergency Fund thereby making the money available once again for student use. Administrator of Financial Aid, Marlene Shettel, accepted the award for the fund.

The featured speakers were introduced by program chair for the event, Kay Furio. The first speaker was Irene Keyse-Walker, a partner and head of the Appellate Practice Group at Arter & Hadden. She is the current chair of the Cleveland Bar Association Committee on Women and the Law which is delving into issues of gender discrimination in the legal profession.

The Cleveland Bar Association has also formed a committee on Alternative Work Schedules. While not specifically addressed to women, it hopes to encourage firms to adopt more flexible work schedules as a viable option to meet the increasingly complicated needs of both attorneys and clients.

The second speaker was Lynn Toler, of Vorys, Sater, Seymour & Pease. Ms. Toler's discussion focussed on her experiences in the setting of large law firms, not only as a female, but also as a black woman. She related that a woman's difficulties are not over once she has found employment; rather the challenge for a female attorney often begins once she sits down behind her desk. Bias and prejudice in a new job can become only too apparent when a woman is faced with differential treatment. This often shows up in assignment of cases and clients. Ms. Toler credits her own success to her professional enthusiasm for taking on unfamiliar situations and experiences. She said that a woman must not allow these challenges to intimidate her, but instead she should use her natural attributes of patience and good listening skills to her advantage when handling even the most challenging of cases or facing a formidable opposing counsel. Speaking to a full house, both women held the full attention of their audience. The interest in the subject and the number of questions indicated a need

for more programs dealing with this subject.

The Women's Law Caucus is a C-M student organization that is committed to providing educational support and information about women's issues to all students. This year the Caucus has sponsored two seminars on the subject of studying and test taking, a luncheon to introduce female faculty and staff, co-sponsored Super Saturday with the Office of Career Planning, and with the SBA co-sponsored a special seminar on Creative Professional Dress. On April 24, the Women's Law Caucus will sponsor a luncheon meeting in the faculty lounge to introduce the new Office of Career Planning director, Cynthia Applin.

Officers for the '91-'92 school year will be: Valerie Arbie, President; Larue Foster, Denise Carpenter, Susan Linkeman, and Donna Grill, Vice Presidents; Lori Sanborn, Treasurer; and Kelly Kaschak, Secretary. Women's Law Caucus is open to all members of the student body, and invites faculty and staff who share our philosophy of support and information to join.



WLC Pres. Eileen Vernon and SBA Sen. Kay Furio address the champagne brunch.

The Case of the Vanishing Associates

by Eileen Vernon

The Case of the Vanishing Associates is a mystery with few clues and few answers. The case has plagued all students who are graduating this year- both men and women. The slowed and still slowing economy has all but closed the door on some members of the 1991 graduating class, but will it impact most on the non-traditional female student and women of color? Over the past few years all of us were concerned about the continuance of a somewhat slow but upward trend towards fair representation of women in all phases of the legal system. There is so much concern that it leads us to ask if there will be a career in law for us after law school. Recent programs sponsored by the Women's Law Caucus have raised our consciousness and have caused some of us to search for clues in the elusive Case of the Vanishing Associates because along with their disappearance goes the better pay and the challenging career that we so eagerly sought upon admission to Cleveland-Marshall.

Not only are new graduates feeling the pinch of the economy, but rumor has it that law firms are laying off first and second year associates. We would like to say it isn't so, but the sad fact is that while the recession is touching everyone it may not be just the recession causing the missing

jobs. There is some evidence to suggest that law firms are restructuring so as to allow lower paying entry level positions. For example, the position of staff attorney at lower pay provides little or no room for promotion or increased pay. Yet most women here at C-M need a job, and many are self-supporting. Some have "sold the farm" to finance their education. This may be the only choice they have in a slowed economy.

In an effort to find such employment, however, female law students must be on guard against opting out for lower paying jobs that are on the fringe of the legal community if that is not what they originally wanted to do. If women take such a position, strong effort must be made to keep focussed on the original goal and on the possibilities for advancement or lateral moves that will put them back on the track once the economy picks up. We need to widen our focus, not lower our sights. We want to be able to work, but at the same time we want to keep our eye on the brass ring. Will an improved economy solve the Case of the Vanishing Associates, or is there a major restructuring within the legal community that will result in fewer higher paying jobs even after the country comes out of the recession. While its not a James Bond thriller, it is a mystery few of us can solve because some important clues are missing and I doubt anyone is going to give us any hints.

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one last look at the right of privacy

By Kevin L. String

In February's Gavel I offered my analysis of the Supreme Court's recent *Cruzan* decision and its effect on the future of the right of privacy doctrine. There remains some loose ends which I would like to address in this column.

For a brief reminder, *Cruzan* involved a young woman's "right to die" after she fell into a persistent vegetative state. The Supreme Court upheld Missouri's stringent clear and convincing evidence requirement, thus forcing each citizen of Missouri to prove almost beyond a reasonable doubt that their vegetative family member would want to die under such circumstances. Practically speaking, this is extremely difficult to do without a living will or the equivalent. Most people in their twenties simply aren't thinking about the subject enough to take such measures. Like most laws that affect one's privacy, this one is unfair, impractical, and generally out of touch with reality. However, the Court rejected the penumbral right of privacy argument and Nancy Cruzan continued to survive until her parents were able to muster up more evidence that she would have wanted to die.

MISSING THE POINT

My point was that with the new conservative Supreme Court, we have seen the last of the use of the right of privacy doctrine to resolve cases where some folks perceive an unenumerated fundamental right is being abridged. Justice White writing for the majority in *Bowers v. Hardwick* (1986) strongly supports my conclusion: "The Court is most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or design of the Constitution." To those following the Court carefully, the *Cruzan* decision came as no surprise. (Actually, it maybe surprised a few who view it as a rather liberal decision.) Therefore, to write that the right of privacy doctrine is dead is no earth-shattering revelation.

For good measure, I injected my own opinion into the article by calling the *Cruzan* decision a great victory for the Constitution. I also referred to Justice Brennan, Blackmun, et al. as demagogues for forcing their own moral values upon us in an unconstitutional and

undemocratic way.

However, several of my colleagues who read the article thought I was communicating some kind of anti-privacy philosophy. Not true. There is a vast difference between arguing that the Supreme Court's use of the right of privacy doctrine is illegitimate versus arguing against an individual's "right to be let alone". The heart of the problem is that many people, including lawyers, cannot distinguish a discussion about the Supreme Court's adjudication processes from a discussion about influential politics and morality. We have Justice Blackmun in particular to thank for that. (I was stunned when Blackmun characterized the right of privacy doctrine as a "cause" during his visit here last year. Is that not more the language of a politician rather than a Supreme Court Justice?)

So for those who care, I am personally distressed by statutes that criminalize private sexual behavior and a woman's right to choose abortion. But I see the above issues as ultimately political and properly placed in our state legislatures for debate. As a state senator, I would push hard for individual autonomy. However, as a Supreme Court Justice, my vow of neutrality would not permit me to carry that torch. My commitment to preserve, protect, and apply constitutional principles would lead me to decide that penumbral right of privacy abridgment claims fail for lack of jurisdiction.

MARYLAND LEADS THE WAY

My analysis of *Cruzan* leads me to conclude that *Roe v. Wade* is about to fall. Even this Court's respect for the doctrine of stare decisis may not provide the necessary life support for the ailing penumbral right to choose abortion. In response to this prognosis, the Maryland legislature passed a bill in February which the Governor subsequently signed allowing physicians to perform abortions without state interference for up to 30 to 35 weeks of pregnancy. By Supreme Court standards this goes well into the third trimester thus indicating an extremely liberal law. Apparently, the law will take effect if *Roe* is overturned and it is left to the individual states to regulate abortion. This law is a product of a strong pro-abortion lobby that aimed its sights on the state legislatures and thereby effectuated change in the way it is supposed to be done in a

democratic society. Of course, if a majority of the people of Maryland decide at some future point they don't like the law, they can vote their representatives out of office. The same cannot be said of the Supreme Court.

MEANING OF LIFE

On February 5, 1983, doctors diagnosed Nancy Cruzan as being in a "persistent vegetative state." The state hospital inserted a feeding tube through her abdominal wall into the stomach. Most of her brain was dead. For the next eight years she existed as a spastic quadriplegic, oblivious to her environment and unable to think or emot, except for occasional grimacing possibly indicating pain. Her extremities contracted with irreversible muscular and tendon damage. She vomited and suffered diarrhea. This, the State of Missouri said, is life. Doctors told her family that she could remain like that for over thirty years. The Supreme Court upheld Missouri's evidential requirement citing the state's unqualified interest in protecting human life. Justice Rhenquist wasted no time in dispensing of the issue of the quality of life:

"Finally, we think a State may properly decline to make judgments about the 'quality' of life that a particular individual may enjoy, and simply assert an unqualified interest in the preservation of human life to be weighed against the constitutionally protected interests of the individual."

In the face of such horrendous factual information about Nancy Cruzan's situation, it must have been extremely difficult, personally, for those of the majority to come to this decision. Nevertheless, it was a constitutionally sound holding. Nowhere does it appear in the Constitution that the Supreme Court can put itself in a position to dictate to the States the meaning of life, and that is really what *Cruzan* is all about.

However, Justice Stevens in his dissenting opinion didn't let go without a fight: "Nancy Cruzan is obviously 'alive' in a physiological sense. But for patients like Nancy Cruzan, who have no consciousness and no chance of recovery, there is serious question as to whether the mere persistence of their bodies is 'life' as that word is commonly understood, or as it is used in both the Constitution and the Declaration of Independence." Clearly, a

See Privacy / p.11

Public Interest Group Forms

A new organization has formed at C-M this Spring, which is dedicated to public interest work. It is called the Student Public Interest Law Organization, or SPILO. Members are becoming involved in practice areas such as environmental law, consumer protection law, and poverty law.

As law students and future attorneys, we are in a position to enhance the society in which we live. SPILO provides members with an opportunity to utilize their skills by working with public interest organizations such as Cleveland Works, Inc., the Legal Aid Society, Children's Defense Fund, and many others. Working

with such groups allows students to develop practical skills as well as affords them an opportunity to explore new areas of interest. SPILO's major objective is to reveal employment opportunities through an extensive directory identifying public interest groups and law firms involved in pro-bono work. For more information about SPILO and to obtain membership information, please contact faculty advisor, Prof. Susan Becker, President Rick Carpinelli, Vice-president Lori Replogle, Treasurer Shirley Tomasello, Secretary Ashvin Chandrasekar, or myself, Afshin Pishevar.

privacy

(Continued from p.10)

Stevens majority would have imposed upon the State a qualified definition of life which would set precedent for all states to adhere to. This is exactly what the court did in *Roe v. Wade* but as I have stated previously, those days are over.

CRUZAN V. ROE

In principle, the Court is going to find it difficult to reconcile *Cruzan* and *Roe* due to the *Cruzan* Court's acceptance of a State's definition of life when the definition is unqualified. Justice Stevens' dissenting comments suggest he must have recognized this point. As in *Cruzan*, if a state can successfully assert that any form of human life is worth preserving except under the most extreme circumstances, there is very little left to keep *Roe* afloat.

The premise of *Roe* was that the Texas abortion statute was too broad. Texas asserted that its interest in preserving the fetal life is unqualified throughout pregnancy. The Court rejected this idea and replaced it with a trimester approach wherein the state's interest in the fetus does not attain compelling status until the third trimester. The *Roe* Court, in effect, based its decision on the notion that a fetus can only attain a higher state interest rating as it passes through certain quality phases of its existence. With *Cruzan* now a matter of record, it is clear that today's Court will not tolerate this approach.

The argument will be made that comparing a vegetative person to a fetus cannot properly be done, and therefore, *Roe* will not fall. However, it seems that a State would logically have more interest in a fetus with potential post-natal life than a degenerative mass of human flesh. Since the Court upheld Missouri's unqualified interest in Nancy Cruzan's hopeless life, then what lies ahead for women who want to terminate the lives of their own fetuses?

New Tax Course Offered

Often since 1974, the suggestion has been made that the law school offer, for the benefit of both present students and alumni special students, a course dealing with the important labor and income tax legislation known as the Employee Retirement Income Security Act of 1974 (as amended)[ERISA]. Recently, such a course has been proposed by Professor Baker and is being seriously considered by the College's Curriculum Committee.

As proposed, the course will deal largely with ERISA's impact on a host of employment and business related problems, including collective bargaining, tax planning, acquisitions, leveraged buyouts, plant closings, layoffs, and bankruptcies.

At present, expressions of interest should be addressed to Curriculum Committee Chairperson, Professor Louis Geneva and/or Associate Dean Carroll Sierk.

C-M Mugs Available

A new shipment of coffee mugs are here just in time for graduation. The mugs have the C-M logo and make great gifts for your friends who are graduating. They are available through any member of the Women's Law Caucus or by order blank on the door of room 26. Each mug is \$5.00 or 2/\$9.50. Any sweat not

picked up by April 2 will be sold. Please contact the WLC if you have ordered any item and have not been contacted. On April 3d, WLC will have all left over items and coffee mugs for sale in the lounge. All proceeds from these sales go towards WLC annual scholarships.

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Letter

(Continued from p.3)

Certainly, the purpose was not to explicitly protect the rights of the accused. Since I have been the brunt of similar judicial "humor", I imagined Chief Justice Rhenquist archly dismissing *Bowers v. Hardwick* as "not raising the fruit of the poisonous tree." The question under the Fourth Amendment in that case, I believe, was not of illegal search, but of the right to privacy. While if it is good that one is not ashamed of what one does in one's bedroom, surely, you can imagine circumstances in which public knowledge would prove embarrassing.

As a final aside, I have always wondered if the right to privacy correctly supported *Roe v. Wade*. Since it is clear from the activities of anti-choice groups that they base their advocacy on deeply held religious beliefs, I wonder if the constitutional prohibition against the establishment of religion would provide a similar ground for that decision.

In closing, I would like to thank you for choosing a profession that has sought to preserve and pursue individual rights under the Constitution. I hope that human experience may moderate your views on the right to privacy and that you will join the tradition of attorneys who have preserved our highest law.

Marie E. Cully

MOOT INTERVIEW

(Continued from p.6)

Q: Finally, where do you see yourself ten years from now?

A: I know I'll be a full partner, probably the head of the litigation department, having the respect and admiration of all my peers and subordinates. My income will be well into the six figure range. And my son will be the ace pitcher on his championship Little League team, of which of course, I will be the manager. (Just threw that in to make myself look like a family man. Interviewers love that crap. Makes me seem "well rounded".)

... Or

A: (Realistically) I'll be paying alimony to my first wife, who put me through law school. I'll be getting a divorce from my second wife, who was my first wife's attorney. (Talk about getting it from both ends.) And one of her paralegals will be trying to seduce me to complete the tri-ecta. So I'm still gonna be broke. Please, gimme the job!

Now the questioning is over. You can go on and hopefully still lead a normal life. While walking out the door you see the faces of those yet to be interviewed. You smile and think to yourself, "Turn back now while you still have the chance." But you don't say anything. It's amazing how dry your hands are now and how calm you are. Of course when you get out to your car there's a ticket on the windshield.

Interviewing

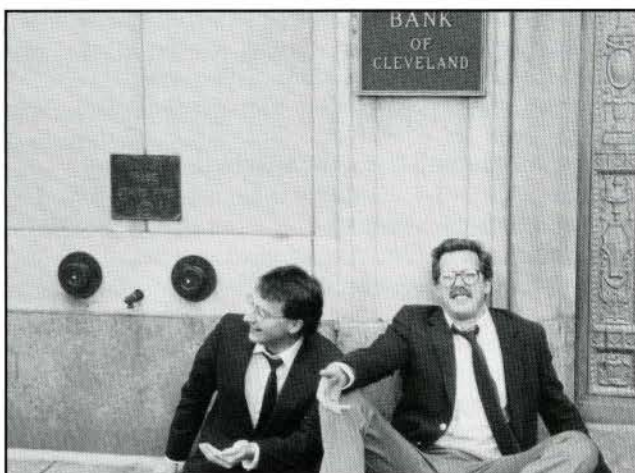
(Continued from p.5)

- Do not take notes during the interview.
- Do not order finger foods if you are invited out to eat. Consuming alcoholic beverages is acceptable, provided the interviewer is also drinking alcohol.
- Do not discuss salary unless a job is offered.
- Send grammatically correct thank-you notes.

Students who want to get jobs also need to have answering machines with business like messages, according to Goldman. "One corporate interviewer told me she gives herself three tries," Goldman said. "If no one answers after that, she goes on to the next candidate."

Goldman stressed that utilizing the resources of the Career Planning Office is the first step to becoming a skilled interviewee. Students can find videotapes on interviewing there, as well as information about employers and books containing commonly asked interviewing questions. The next step is gaining actual interview experience.

"Interviewing is a game you play," Goldman said. "The more interviews you have, the better chance you have of winning."



Brother, can you spare a dime?

The Gavel

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